IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

FAO No.1868 of 2006

Date of Decision: October 12, 2007

Satpal .....Appellant

Versus

Mehar Chand Technical Instt. & others .....Respondents

CORAM:- HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.Ramesh Sharma, Advocate for the appellant.

S. D. ANAND, J.

CM No.8746-CII of 2006

For the affidavit-supported reasons, delay of 67 days in re-filing the appeal is condoned. C.M. stands allowed.

FAO No.1868 of 2006

Notice of motion.

Mr.HPS Ghuman, Advocate accepts notice on behalf of respondents No.1 and 2 and Mr.Dharminder Singh, Advocate accepts notice on behalf of respondent No.3.

A petition, filed by respondent-claimants No.1 to 3 (hereinafter referred to as "the claimants") for the award of compensation on account of the damage to the common gate of their premises due to the rash and negligent driving of Truck No.PB-04-2515 (hereinafter referred to as "the offending vehicle driven by respondent No.1"), was allowed and the

learned Motor Accident Claims Tribunal (hereinafter referred to as "the Tribunal") awarded a compensation of Rs.2 lacs vide award dated 22.8.2005. The learned Tribunal, in awarding the compensation, recorded a finding that the offending vehicle dashed into the common gate of the claimants on account of rash and negligent driving by its driver Bagicha Singh, respondent No.3 (hereinafter referred to as "the driver"). The liability of the driver and respondent No.4 - Surjit Singh (registered owner of the offending vehicle) was held to be joint and several.

The registered owner of the offending vehicle has come up in appeal.

Learned counsel for the appellant argues that the impugned accident occurred on account of no fault on the part of the appellant as the floor brakes of the offending vehicle suddenly failed.

The self-serving statement made by the appellant, in the context, is not supported by any evidence including the mechanical report which must have come to be obtained in the course of the investigation of the criminal case registered against the driver. It is common ground that the driver is facing a criminal prosecution on a charge of having caused the impugned accident by driving the offending vehicle rashly and negligently. It is a routine matter for the police to get the offending vehicle of this type mechanically tested. Learned counsel for the appellant is not in a position to dispute that no copy of the relevant mechanical report had been placed on the Tribunal file.

It may be noticed that the driver is being prosecuted in a Court of law on a charge of having caused the impugned accident by driving the offending vehicle rashly and negligently. It is not the plea on behalf of the

appellant that any complaint about false implication in the present case had been lodged either by the appellant or by the driver. In that view of things, the inescapable conclusion is that the appellant has not been able to prove that the impugned accident had occurred on account of sudden failure of brakes.

No other point has been argued.

The FAO shall stand dismissed accordingly.

(S. D. ANAND)
JUDGE

October 12, 2007
SRM

Note: Whether referred to reporter ? Yes/No